**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL SALLIE and **MELINDA PERKINS**,	)
	)
Plaintiffs,	)
	)
vs.	) 2:10cv456
	) **Electronic Filing**
BRYAN LYNK, individually and in his official capacity as a Police Officer of Midland Borough; **BRUCE TOOCH**, individually and in his official capacity as a Police Officer of Midland Borough; **RONALD LUTTON**, individually and in his official capacity as a Police Officer of Midland Borough; **GEORGE HRUBOVCAK**, individually and in his official capacity as a Police Officer of Midland Borough; and **MIDLAND BOROUGH**,	))))))))))))
	)
Defendants.	)

<u>MEMORANDUM ORDER</u>

AND NOW, this 19th day of November, 2012, upon due consideration of plaintiffs' motion

in limine to exclude evidence of plaintiff Sallie's specific criminal history and the parties'

submissions in conjunction therewith, IT IS ORDERED that [85] the motion be, and the same

hereby is, denied. Sallie's prior conviction is admissible under Rule 609(a)(1)(A). Sallie's

conviction for drug possession with intent to deliver was only about seven years old at the time

of the events in question. He was still on supervision for the offense. It thus was well within the

time frame deemed to be probative of veracity under the Rule. Furthermore, there is no evidence

or basis for defendants to imply or contend that Sallie was engaging in similar conduct at the

time in question. In addition, plaintiffs' testimony will be central to the issues to be tried and

Sallie's testimony will be critical in assessing damages should the jury reach such matters.

Consequently, on balance the probative value of the evidence is not substantially outweighed by

its prejudicial effect and no undue prejudice will be created by the admission of the specific

nature of Sallie's prior conviction should he choose to testify at trail.

                                        s/ David Stewart Cercone
                                        David Stewart Cercone
                                        United States District Judge

cc: Patrick Sorek, Esquire
        Douglas C. Hart, Esquire
        Charles H. Saul, Esquire
        Kyle T. McGee, Esquire

        (*Via CM/ECF Electronic Mail*)